

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NELSON MCCAULEY,

Defendant.

8:08CR329

ORDER

Defendant Nelson McCauley (McCauley) appeared before the court on October 27, 2011, on the Petition for Warrant or Summons for Offender Under Supervision (Petition) (Filing No. 62). McCauley was represented by Assistant Federal Public Defender Julie B. Hansen and the United States was represented by Assistant U.S. Attorney Douglas M. Semisch. Through his counsel, McCauley waived his right to a probable cause hearing on the Petition pursuant to Fed. R. Crim. P. 32.1(a)(1). I find that the Petition alleges probable cause and that McCauley should be held to answer for a final dispositional hearing before Chief Judge Joseph F. Bataillon.

The government moved for detention. Through counsel, McCauley declined to present any evidence or request a hearing on the issue of detention. Since it is McCauley's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds McCauley has failed to carry his burden and that McCauley should be detained pending a dispositional hearing before Chief Judge Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Chief Judge Joseph F. Bataillon in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 8:30 a.m. on November 30, 2011**. Defendant must be present in person.
2. Defendant Nelson McCauley is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;
3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and
4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 27th day of October, 2011.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge